IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 24TH MAY 2007 / 3RD JYAISHTA 1929

Crl.Rev.Pet.No. 1767 of 2007()

CRA.149/2006 of II ADDL. SESSIONS COURT, PALAKKAD
ST.969/2004 of JUDL.MAGISTRATE OF FIRST CLASS COURT-II, PALAKKAD

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REVN. PETITIONER: APPELLANT/ACCUSED

SRI.K.BALASUBRAMANINAN NAIR,
S/O.KRISHNAN NAIR,
PRASANTHI,GANDHI NAGAR,MALAMPUZHA,
PALAKKAD.

BY ADV. SRI.VINOD KUMAR.C

RESPONDENTS: RESPONDENT/COMPLAINANT & STATE

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1. T.JOHN,S/O.,M.V.THOMAS,
MENACHERY HOUSE,AISWARYA NAGAR KUNNATHUMEDU,
PALAKKAD.

2. STATE OF KERALA,
REP. BY PUBLIC RPROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 24/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J

CRL.R.P.No.1767 of 2007

Dated this the 24th day of May, 2007

O R D E R

The revision petitioner stands convicted for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for six months and to pay a compensation of Rs.75,000/- to the complainant within one month and in default, to undergo simple imprisonment for two months.

2. It is seen that the revision petitioner has not adduced any evidence to rebut the statutory presumptions. PW1, the complainant has testified. He has also produced the documents that include the dishonour memo, copy of the lawyer notice, acknowledgment and postal receipt. The contention of the accused/revision petitioner is that he borrowed a sum of Rs.5,000/- from one Mohanan, who is the friend of the complainant and towards security the accused had issued a blank signed cheque to Mohanan and that he has misused the same by filing the complaint through the present complainant. It is the contention of the revision petitioner that he has not

afforded adequate opportunity to summon the above said Mohanan. I find from the orders of the appellate court, the court had allowed the application. But the revision petitioner/accused did not remit the process and hence the court was constrained to close the evidence. The case is of the year 2004 and the matter was adjudicated finally on 13.2.2006. On a consideration of the decisions of the court below, I find that the findings are supported by proper reasons. There are no grounds to interfere in the orders of the courts below. The conviction is confirmed.

3. Considering the plea of the counsel for the revision petitioner, the sentence is modified to imprisonment till the rising of the court. The rest of the sentence is confirmed. Revision petitioner is granted six months' time from today onwards to pay the amount of compensation. He shall appear before the Judicial First Class Magistrate Court-II, Palakkad on 24.11.2007 to receive the sentence. Non bailable warrant pending, if any, shall be kept in abeyance till 24.11.2007.

The criminal revision petition is disposed of as above.

K.R.UDAYABHANU,
JUDGE

csl